

United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA

VENUE: SAN FRANCISCO

FILED

Aug 12 2021

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

UNITED STATES OF AMERICA,

V.

CR21-313 CRB

FRANCISCO NUNEZ-NEPITA

DEFENDANT(S).

INDICTMENT

18 U.S.C. § 371 – Conspiracy to Deal in Firearms Without a License
18 U.S.C. §§ 922(a)(1)(A) and 2 – Dealing in Firearms Without a License, Aiding
and Abetting
18 U.S.C. § 922(o) and 2 – Possession of a Machinegun, Aiding and Abetting
18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c) - Forfeiture Allegation

A true bill.

/s/ Foreperson of the Grand Jury

Foreman

Filed in open court this 12th day of
August, 2021

Karen L. Horn

Clerk

Bail, \$ No Process

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CLERK, U.S. DISTRICT COURT
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SAN FRANCISCO

STEPHANIE M. HINDS (CABN 154284)
Acting United States Attorney

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	CASE NO. CR21-313 CRB
Plaintiff,)	
v.)	<u>VIOLATION:</u>
FRANCISCO NUNEZ-NEPITA)	18 U.S.C. § 371 – Conspiracy to Deal in Firearms
Defendant.)	Without a License;
)	18 U.S.C. §§ 922(a)(1)(A), and 2 – Dealing in
)	Firearms Without a License and Aiding and Abetting;
)	18 U.S.C. §§ 922(o), and 2 – Possession of a
)	Machinegun and Aiding and Abetting;
)	18 U.S.C. § 924(d), 28 U.S.C. § 2461(c) – Forfeiture
)	Allegations

INDICTMENT

The Grand Jury charges:

COUNT ONE: (18 U.S.C. § 371 – Conspiracy to Deal in Firearms Without a License)

Introductory Allegations

At all times relevant to this Indictment:

1. Defendant Francisco NUNEZ-NEPITA (NUNEZ-NEPITA) was a resident of East Palo Alto, California.

2. Instagram was a social networking application or service, which is commonly used to share photographs and videos, as well as exchange messages between users. Defendant NUNEZ-NEPITA used an Instagram account. William Alexis-Villa (Alexis-Villa) also used an Instagram

INDICTMENT

1 account.

2 3. At all times relevant to this Indictment, Defendant NUNEZ-NEPITA was not licensed to
3 import, manufacture, or deal firearms under the provision of Chapter 44, Title 18, United States Code.
4 Neither Alexis-Villa nor Erik Acevedo-Cruz (Acevedo-Cruz) was licensed to import, manufacture, or
5 deal firearms under the provision of Chapter 44, Title 18, United States Code.

6 Object of the Conspiracy

7 4. Beginning at a time unknown to the Grand Jury, but no later than on or about June 18,
8 2019, and continuing to on or about November 7, 2019, in the Northern District of California, the
9 defendant,

10 FRANCISCO NUNEZ-NEPITA

11 not being a licensed importer, licensed manufacturer, or licensed dealer of firearms, within the meaning
12 of Chapter 44, Title 18, United States Code, did unlawfully and knowingly combine, conspire, and agree
13 together with Alexis-Villa, Acevedo-Cruz, and others known and unknown, none of whom were
14 licensed to import, manufacture, or deal firearms under the provision of Chapter 44, Title 18, United
15 States Code, to commit an offense against the United States, specifically, dealing in firearms without a
16 license, in violation of Title 18, United States Code, Section 922(a)(1)(A).

17 Manner and Means

18 5. Defendant NUNEZ-NEPITA, Alexis-Villa, and Acevedo-Cruz would obtain firearms for
19 the purpose of illegally selling them to others in the Northern District of California. During the
20 timeframe referenced in this Indictment, defendant NUNEZ-NEPITA, Alexis-Villa, and/or Acevedo-
21 Cruz repeatedly sold firearms to a third-party purchaser.

22 6. Defendant NUNEZ-NEPITA, Alexis-Villa, and Acevedo-Cruz advertised, negotiated,
23 and/or conducted firearms sales in a variety of ways, including in person at the residence of Alexis-
24 Villa, via text messages, and via Instagram. At various times, Alexis-Villa and Acevedo-Cruz described
25 to the third-party purchaser their ready access to a variety of firearms for sale.

26 Overt Acts

27 7. In furtherance of the conspiracy, and to accomplish its objects, Defendant NUNEZ-
28

1 NEPITA, Alexis-Villa, Acevedo-Cruz, and other co-conspirators, known and unknown, committed
2 various overt acts in the Northern District of California and elsewhere, including but not limited to the
3 following:

4 (a) On or about August 5, 2019, Defendant NUNEZ-NEPITA and Alexis-Villa used
5 their respective Instagram accounts to exchange Instagram direct messages and video calls. During
6 those communications, Alexis-Villa told Defendant NUNEZ-NEPITA that he wanted to sell his firearm.

7 (b) On or about August 6, 2019, Defendant NUNEZ-NEPITA advertised a Glock 22
8 firearm for sale on his Instagram account.

9 (c) On or about August 6, 2019, Defendant NUNEZ-NEPITA and the third-party
10 purchaser communicated via Instagram direct messages. During those communications, Defendant
11 NUNEZ-NEPITA stated that he has a “fully” automatic Glock firearm for sale for \$1400.

12 (d) On or about August 6, 2019, Defendant NUNEZ-NEPITA sent a text message to
13 the third-party purchaser in which he stated that he had a fully automatic Glock 22 firearm with an
14 extended magazine for sale. He sent a photograph of the firearm to the third-party purchaser via text
15 message.

16 (e) On or about August 6, 2019, Defendant NUNEZ-NEPITA informed the third-
17 party purchaser that his “friend” would conduct the transaction that day.

18 (f) On or about August 6, 2019, the third-party purchaser gave his cell phone number
19 to Defendant NUNEZ-NEPITA and instructed him to share the number with the “friend” who would
20 conduct the transaction.

21 (g) On or about August 6, 2019, Defendant NUNEZ-NEPITA used his Instagram
22 account to message the third-party purchaser’s cell phone number to Alexis-Villa’s Instagram account.

23 (h) On or about August 6, 2019, Alexis-Villa called the third-party purchaser at the
24 cell phone number provided to him by Defendant NUNEZ-NEPITA. Through a series of phone calls
25 and text messages, Alexis-Villa and the third-party purchaser agreed to meet to conduct the firearm sale.

26 (i) On or about August 6, 2019, Alexis-Villa and the third-party purchaser traveled to
27 Alexis-Villa’s residence in Menlo Park (hereafter, “the residence”) to complete the firearm transaction.
28 While en route, Alexis-Villa listed the firearms that he could obtain for sale in the future, including

1 “fully automatic” weapons.

2 (j) On or about August 6, 2019, Alexis-Villa provided the third-party purchaser with
3 a Glock firearm with a “switch” and nine rounds of ammunition in exchange for \$1400.

4 (k) On or about August 6, 2019, Alexis-Villa informed the third-party purchaser that,
5 in the future, the third-party purchaser should communicate with him via Instagram because he fears that
6 the police can get access to his telephone records.

7 (l) On or about August 6, 2019, after the firearm transaction, Alexis-Villa confirmed
8 to the third-party purchaser that he can supply additional firearms for sale.

9 (m) On or about August 13, 2019, Alexis-Villa communicated with the third-party
10 purchaser via his Instagram account to negotiate the sale of additional firearms. In those
11 communications, Alexis-Villa transmitted to the third-party purchaser photographs of the firearms he
12 was seeking to sell.

13 (n) On or about August 13, 2019, Alexis-Villa arranged to meet with the third-party
14 purchaser at the residence to sell two firearms to the third-party purchaser.

15 (o) On or about August 13, 2019, before the third-party purchaser arrived, Acevedo-
16 Cruz arrived at the residence and delivered firearms to Alexis-Villa.

17 (p) On or about August 13, 2019, Acevedo-Cruz and Alexis-Villa met with the third-
18 party purchaser at the residence in Menlo Park, and sold the third-party purchaser two rifles in exchange
19 for \$3400.

20 (q) On or about August 13, 2019, after the transaction, Acevedo-Cruz told the third-
21 party purchaser that he could obtain more firearms for the third-party purchaser.

22 (r) On or about October 10, 2019, Alexis-Villa contacted the third-party purchaser
23 via Instagram and informed the third-party purchaser that Alexis-Villa had a Glock handgun for sale.
24 Alexis-Villa sent to the third-party purchaser via Instagram a photograph of himself and Acevedo-Cruz
25 holding the firearms that they wanted to sell.

26 (s) On or about October 10, 2019, Acevedo-Cruz texted the third-party purchaser and
27 informed the third-party purchaser that he would conduct the firearms transaction at the residence.

28 (t) On or about October 10, 2019, the third-party purchaser met Acevedo-Cruz at the

1 residence and Acevedo-Cruz provided the third-party purchaser with three firearms in exchange for
2 \$3,500.

3 (u) On or about October 10, 2019, after the transaction, Alexis-Villa sent the third-
4 party purchaser the following direct message via Instagram: “hope you like un.”

5 All in violation of Title 18, United States Code, Sections 371 and 922(a)(1)(A).

6
7 COUNT TWO: (18 U.S.C. §§ 922(a)(1)(A), and 2 – Dealing in Firearms Without a License, Aiding
8 and Abetting)

9 8. Beginning on a date unknown to the Grand Jury, but no later than June 18, 2019, and
10 continuing to on or about November 7, 2019, in the Northern District of California, the defendant,
11 FRANCISCO NUNEZ-NEPITA,
12 not being a licensed dealer of firearms within the meaning of Chapter 44, Title 18, United States Code,
13 did willfully engage in the business of dealing in firearms, or did aid and abet Alexis-Villa, who was
14 also not a licensed dealer of firearms within the meaning of Chapter 44, Title 18, United States Code, in
15 the same.

16 All in violation of Title 18, United States Code, Sections 922(a)(1)(A), 923(a), 924(a)(1)(D), and
17 2.

18 COUNT THREE: (18 U.S.C. §§ 922(o), and 2 – Possession of a Machinegun, Aiding and Abetting)

19 9. On or about August 6, 2019, in the Northern District of California, the defendant,
20 FRANCISCO NUNEZ-NEPITA,
21 knowingly and unlawfully possessed, or aided and abetted the possession of, a machinegun (any part
22 designed and intended solely and exclusively for use in converting a weapon into a weapon that shoots
23 and is designed to shoot automatically more than one shot, without manual reloading, by a single
24 function of the trigger), specifically, a device commonly known as a “Glock switch.”

25 All in violation of Title 18, United States Code, Sections 922(o) and 2.
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1 FORFEITURE ALLEGATION: (18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c))

2 The allegations contained in this Indictment are re-alleged and incorporated by reference for the
3 purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 924(d) and Title 28,
4 United States Code, Section 2461(c).

5 Upon conviction of the offense set forth in this Indictment, the defendant,
6 FRANCISCO NUNEZ-NEPITA,
7 shall forfeit to the United States, pursuant to Title 18, United States Code, Section 924(d) and Title 28,
8 United States Code, Section 2461(c), any firearm and ammunition involved in the commission of the
9 offenses, including, but not limited to, the following property:

- 10 a. Rugar Mini 14 Ranch Rifle, serial number 18751332;
- 11 b. 3 .223 caliber magazines;
- 12 c. P80 .40 caliber Glock, no serial number;
- 13 d. 9 rounds of .40 caliber ammunition;
- 14 e. AR style short-barreled rifle, serial number N002830;
- 15 f. AR style rifle, no serial number;
- 16 g. 2 magazines of .223 ammunition;
- 17 h. Taurus International PT735 handgun, serial number ID072371;
- 18 i. Glock 48 handgun, serial number BLBH160;
- 19 j. A Glock style handgun with polymer frame, no serial number; and
- 20 k. 26 rounds of .40 caliber ammunition.

21 If any of the property described above, as a result of any act or omission of the defendant:

- 22 a. cannot be located upon exercise of due diligence;
- 23 b. has been transferred or sold to, or deposited with, a third party;
- 24 c. has been placed beyond the jurisdiction of the court;
- 25 d. has been substantially diminished in value; or
- 26 e. has been commingled with other property which cannot be divided without
27 difficulty,

28 the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21,

1 United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

2 All pursuant to Title 18, United States Code, Section 924(d), Title 28, United States Code,
3 Section 2461(c), and Federal Rule of Criminal Procedure 32.2.

4
5 DATED: August 12, 2021

A TRUE BILL.

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8
9 STEPHANIE M. HINDS
10 Acting United States Attorney

/s/
FOREPERSON
San Francisco

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12 _____
/s/
YOOSUN KOH
13 Assistant United States Attorney
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